

# **EXHIBIT 4**

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

IN RE ADVOCATE AURORA HEALTH PIXEL  
LITIGATION

Civil Action No. 2:22-cv-1253-JPS

**DECLARATION OF  
SCOTT M. FENWICK OF KROLL  
SETTLEMENT ADMINISTRATION  
LLC IN CONNECTION WITH  
PRELIMINARY APPROVAL OF  
SETTLEMENT**

I, Scott M. Fenwick, hereby declare:

1. I am a Senior Director of Kroll Settlement Administration LLC (“Kroll”),<sup>1</sup> the Settlement Administrator to be appointed in the above-captioned case, whose principal office is located at 2000 Market Street, Suite 2700, Philadelphia, Pennsylvania 19103. I am over 21 years of age and am authorized to make this declaration on behalf of Kroll and myself. The following statements are based on my personal knowledge and information provided by other experienced Kroll employees working under my general supervision. This declaration is being filed in connection with preliminary approval of the Settlement.

2. Kroll has extensive experience in class action matters, having provided services in class action settlements involving antitrust, securities, labor and employment, consumer and government enforcement matters. Kroll has provided class action services in over 3,000 settlements varying in size and complexity over the past 50 years.

3. Kroll is prepared to provide a full complement of notification and claims administration services in connection with that certain Settlement Agreement entered into in

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<sup>1</sup> Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Settlement Agreement.

connection with the above-captioned matter, including Postcard Notice of the Settlement disseminated by mail and/or email, through the use of a Settlement Website to be created in connection with this matter, and through publication if requested by Class Counsel and Defendant's Counsel (collectively "Counsel").

4. It is Kroll's understanding that it will be provided with a list of Settlement Class Members covered under the proposed Settlement Agreement, containing a combination of names, last physical addresses, email addresses, and other data elements pertinent to the administration of the Settlement.

5. The Notice Program shall be effectuated in accordance with the terms of the Settlement Agreement and any orders of the Court. Kroll may request the assistance of Counsel to facilitate providing notice and to accomplish such other purposes as may be approved by Counsel.

#### **Notice by Email**

6. If emailing of notices is required, in preparation for disseminating notices by email, Kroll will work with Counsel to finalize the language for the email form of notice. Once the email form of the notice is approved, Kroll will create an email notice template in preparation for the email campaign. Kroll will prepare a file with all Settlement Class Member email addresses and upload the file to an email campaign platform. Kroll will prepare email proofs for Counsel's review and approval. The proofs/test emails for approval will include the body of the email and subject line. Once the proofs/test emails are approved, the email campaign will begin as directed in the Settlement.

7. Kroll will track and monitor emails that are rejected or "bounced back" as undeliverable. At the conclusion of the email campaign, Kroll will provide a report with the email delivery status of each record. The report will include the number of records that had a successful email notice delivery, and a count of the records where delivery failed. Kroll will also update its administration database with the appropriate status of the email campaign for each of the Settlement Class Member records.

**Notice by Mail**

8. Kroll will work with Counsel to format the Postcard Notice for mailing. Upon approval, Kroll will coordinate the preparation of Postcard Notice proofs for Counsel to review and approve.

9. As required under paragraph 47 of the Settlement Agreement, Kroll will send the Postcard Notices to the physical addresses of Settlement Class Members who have a mailing address in the data to be provided.

10. Postcard Notices will be sent by first-class mail to all physical addresses as noted above. In preparation for the notice mailing, Kroll will send the data through the United States Postal Service's ("USPS") National Change of Address ("NCOA") database. The NCOA process will provide updated addresses for Settlement Class Members who have submitted a change of address with the USPS in the last 48 months, and the process will also standardize the addresses for mailing. Kroll will then prepare a mail file of Settlement Class Members that are to receive the notice via first-class mail.

11. Postcard Notices returned by the USPS with a forwarding address will be automatically re-mailed to the updated address provided by the USPS.

12. As required under paragraphs 32 and 47 of the Settlement Agreement, Postcard Notices returned by the USPS undeliverable as addressed without a forwarding address will be sent through an advanced address search process in an effort to find a more current address for the record. If an updated address is obtained through the advanced search process, Kroll will re-mail the Postcard Notice to the updated address.

13. The direct notice program as outlined in the Settlement Agreement and as expected to be implemented by Kroll contemplates a robust Settlement class list that will allow for direct notice to reach the vast majority of Settlement Class Members through direct mail, consistent with due process. Based upon information provided by Counsel, and assuming data received is relatively up to date, we expect an average undeliverable rate of no more than [9%] and, thus, direct notice we project to reach of [91%] of the Settlement Class. These assumptions are subject

to the accuracy and quality of the data received. The reach rate is consistent with other court-approved, best-practicable notice programs and Federal Judicial Center Guidelines, which state that a notice plan that reaches<sup>2</sup> over 70% of targeted class members is considered a high percentage and the “norm” of a notice campaign.<sup>3</sup>

### **Settlement Website**

14. Kroll will work with Counsel to create a dedicated Settlement Website. The Settlement Website URL will be determined and approved by Counsel. The Settlement Website will allow Settlement Class Members to contact Kroll with any questions or changes of address, provide notice of important dates such as the Final Approval Hearing, Claim Deadline, Objection Deadline, and Opt-Out Date, and provide Settlement Class Members who file Claim Forms online the opportunity to select an electronic payment method, including Venmo, Zelle, Paypal, ACH, or payment by check. The Settlement Website will also contain relevant case documents including the Complaint, the Settlement Agreement, Postcard Notice, the Long-Form Notice, Plaintiffs' Motion for Preliminary Approval, and the Preliminary Approval Order. The Settlement Website will remain active for 180 days following the Effective Date. It is Kroll's understanding, that it is Defendant's intention to post information about the Settlement on its website.

### **Toll-Free Number**

15. Kroll will also establish a toll-free number for the Settlement. The toll-free number, (833) 933-9030, will allow Settlement Class Members to call, obtain information about the Settlement through an Interactive Voice Response system, and have the option to speak with a live operator.

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<sup>2</sup> FED. JUD. CTR., *Judges' Class Action Notice and Claims Process Checklist and Plain Language Guide* (2010), available at <https://www.fjc.gov/sites/default/files/2012/NotCheck.pdf>. The guide suggests that the minimum threshold for adequate notice is 70%.

<sup>3</sup> Barbara Rothstein and Thomas Willging, *Federal Judicial Center Managing Class Action Litigation: A Pocket Guide for Judges*, at 27 (3d Ed. 2010).

**Post Office Box**

16. Kroll will designate a Post Office Box with the mailing address captioned In Re Advocate Aurora Pixel Litigation c/o Kroll Settlement Administration, LLC, PO Box 5324, New York, NY 10150-5324 in order to receive Requests for Exclusion, Claim Forms, written notices, and correspondence from Settlement Class Members.

**Administration Cost**

17. Based on Kroll's current understanding of the Settlement Class size and requested administration services, estimated Notice and Settlement Administration Costs are approximately \$1,341,419 for direct notice and claims administration under the Settlement. The current estimate is subject to change depending on factors such as the actual Settlement Class size and/or any Settlement administration scope change not currently under consideration.

I declare under penalty of perjury under the laws of the United States that the above is true and correct to the best of my knowledge and that this declaration was executed on August 11, 2023, in Inver Grove Heights, Minnesota.

  
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Scott M. Fenwick